

## **Senate Bill No. 418**

### **CHAPTER 463**

An act to amend Section 56836.173 of the Education Code, and to amend Sections 97.2 and 97.3 of the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor October 11, 2007. Filed with  
Secretary of State October 11, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 418, Migden. Local government finance: special education funding.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund (ERAF) in that county for allocation to school districts, community college districts, and the county office of education.

If any excess revenues remain in a county ERAF after allocations are made to these school entities, existing law requires the county auditor to allocate these excess moneys to county superintendents of schools for special education programs. Existing law specifies that these allocations are to be counted as augmentations to property tax revenues for special education programs to the extent that these revenues offset state aid otherwise received pursuant to a specified statute. Existing law requires that, if any excess revenues remain in county ERAFs after these allocations are made for special education programs, these excess revenues be allocated among the county and cities and special districts in the county in proportion to their contribution to the county ERAF.

Existing law requires the Superintendent of Public Instruction to calculate funding for each special education local plan area (SELPA) each fiscal year and to calculate the amount of General Fund moneys the SELPA shall

receive after subtracting from the total amount of funding the SELPA is to receive for special education programs and licensed children's institutions the amount of property tax revenues available to the SELPA and the amount of federal moneys received pursuant to a specified provision. Existing law requires the State Department of Education to apportion to each SELPA an amount of funding for out-of-home care in licensed children's institutions pursuant to a specified formula.

This bill would, for the 2007–08 fiscal year and for each fiscal year thereafter, require the auditor of a county whose ERAF contains excess funds to apportion, to the extent funds are available after funding is provided for general special education programs, funds sufficient to cover not more than 50% of the amount determined, pursuant to a specified statute, to a SELPA for the funding of out-of-home care in licensed children's institutions. This bill would require the State Department of Education, for the same fiscal years, to apportion the remaining 50% of the amount determined pursuant to that specified provision, or a larger percentage, as necessary, if the applicable county ERAF has insufficient funds available for that purpose, to the applicable SELPA. This bill would prohibit a county from being required to provide excess ERAF funds for purposes of specified special education programs for a fiscal year prior to the 2007–08 fiscal year that has not already provided for those programs prior to the start of the 2007–08 fiscal year. This bill also would, for the 2007–08 fiscal year and for each fiscal year thereafter, prohibit excess ERAF funds from being apportioned to additional special education programs.

By changing the manner in which property tax revenues are allocated by county auditors, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 56836.173 of the Education Code is amended to read:

56836.173. (a) For the fiscal years 2004–05 to 2006–07, inclusive, the department shall apportion to each special education local plan area the amount determined as follows:

(1) For the 2004–05 and 2005–06 fiscal years, the amount apportioned shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area is less than or equal to the amount a special education local plan area received pursuant to former Sections 56836.16 and 56836.17 for the 2002–03 fiscal year, the special education local plan area shall receive the same amount it received for the 2002–03 fiscal year.

For purposes of this section, the amount of funding received by a special education local plan area for the 2002–03 fiscal year shall be based on the annual recertification of the 2002–03 fiscal year, as certified by the department in July of 2004.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2002–03 fiscal year plus the amount calculated in subparagraph (C).

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for the special education local plan area and the amount received for the 2002–03 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2002–03 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(2) For the 2006–07 fiscal year, the amount apportioned shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area for the 2006–07 fiscal year is less than or equal to the amount a special education local plan area received for the 2005–06 fiscal year, the special education local plan area shall receive the same amount it received for the 2005–06 fiscal year less 20 percent of the difference between the amount received for the 2005–06 fiscal year and the out-of-home care funding amount computed for the 2006–07 fiscal year.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2005–06 fiscal year.

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2005–06 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2005–06 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(b) (1) Commencing with the 2007–08 fiscal year, both of the following shall apply:

(A) To the extent that funds are available pursuant to subclause (II) of clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of the Revenue and Taxation Code or subclause (II) of clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of the Revenue and Taxation Code, or both, not more than 50 percent of the amount determined in this subdivision for the applicable fiscal year shall be apportioned by the auditor of the county containing the applicable county

Educational Revenue Augmentation Fund to the special education local plan area.

(B) The remaining 50 percent of the amount determined in this subdivision for the applicable fiscal year, or more if the applicable county Educational Revenue Augmentation Fund does not have sufficient funds to cover the entire percentage pursuant to subparagraph (A), shall be apportioned by the department to the special education local plan area.

(2) For the 2007–08 fiscal year, the total amount apportioned to a special education local plan area pursuant to the formula established in paragraph (1) shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area for the 2007–08 fiscal year is less than or equal to the amount a special education local plan area received for the 2006–07 fiscal year, the special education local plan area shall receive the same amount it received for the 2006–07 fiscal year less 25 percent of the difference between the amount received for the 2006–07 fiscal year and the out-of-home care funding amount computed for the 2007–08 fiscal year.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2006–07 fiscal year.

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2006–07 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2006–07 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(3) For the 2008–09 fiscal year, the total amount apportioned to a special education local plan area pursuant to the formula established in paragraph (1) shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area for the 2008–09 fiscal year is less than or equal to the amount a special education local plan area received for the 2007–08 fiscal year, the special education local plan area shall receive the same amount it received for the 2007–08 fiscal year less 33 percent of the difference between the amount received for the 2007–08 fiscal year and the out-of-home care funding amount computed for the 2008–09 fiscal year.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2007–08 fiscal year.

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2007–08 fiscal year for that special education local plan area divided by the sum of the

difference between the out-of-home care funding amount and the amount received in the 2007–08 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(4) For the 2009–10 fiscal year, the total amount apportioned to a special education local plan area pursuant to the formula established in paragraph (1) shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area for the 2009–10 fiscal year is less than or equal to the amount a special education local plan area received for the 2008–09 fiscal year, the special education local plan area shall receive the same amount it received for the 2008–09 fiscal year less 50 percent of the difference between the amount received for the 2008–09 fiscal year and the out-of-home care funding amount computed for the 2009–10 fiscal year.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2008–09 fiscal year.

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2008–09 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2008–09 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(5) Beginning in the 2010–11 fiscal year, the total amount apportioned to a special education local plan area pursuant to the formula established in paragraph (1) shall be equal to the amount calculated pursuant to Section 56836.165. If the sum of the amounts calculated pursuant to Section 56836.165 for all special education local plan areas exceeds the Budget Act appropriation for this purpose, the department shall apply proportionate reductions to all special education local plan areas.

(c) A county Educational Revenue Augmentation Fund shall not be required to provide funding for special education programs funded pursuant to this section based on clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of the Revenue and Taxation Code, or clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of the Revenue and Taxation Code, or both, for a fiscal year prior to the 2007–08 fiscal year that it has not already provided for these programs prior to the start of the 2007–08 fiscal year.

SEC. 2. Section 97.2 of the Revenue and Taxation Code is amended to read:

97.2. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section shall be modified for the 1992–93 fiscal year

pursuant to subdivisions (a) to (d), inclusive, and for the 1997–98 and 1998–99 fiscal years pursuant to subdivision (e), as follows:

(a) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each county shall be reduced by the dollar amounts indicated as follows, multiplied by 0.953649:

	Property Tax Reduction per County
Alameda.....	\$ 27,323,576
Alpine.....	5,169
Amador.....	286,131
Butte.....	846,452
Calaveras.....	507,526
Colusa.....	186,438
Contra Costa.....	12,504,318
Del Norte.....	46,523
El Dorado.....	1,544,590
Fresno.....	5,387,570
Glenn.....	378,055
Humboldt.....	1,084,968
Imperial.....	998,222
Inyo.....	366,402
Kern.....	6,907,282
Kings.....	1,303,774
Lake.....	998,222
Lassen.....	93,045
Los Angeles.....	244,178,806
Madera.....	809,194
Marin.....	3,902,258
Mariposa.....	40,136
Mendocino.....	1,004,112
Merced.....	2,445,709
Modoc.....	134,650
Mono.....	319,793
Monterey.....	2,519,507
Napa.....	1,362,036
Nevada.....	762,585
Orange.....	9,900,654
Placer.....	1,991,265
Plumas.....	71,076
Riverside.....	7,575,353
Sacramento.....	15,323,634
San Benito.....	198,090
San Bernardino.....	14,467,099
San Diego.....	17,687,776
San Francisco.....	53,266,991

San Joaquin.....	8,574,869
San Luis Obispo.....	2,547,990
San Mateo.....	7,979,302
Santa Barbara.....	4,411,812
Santa Clara.....	20,103,706
Santa Cruz.....	1,416,413
Shasta.....	1,096,468
Sierra.....	97,103
Siskiyou.....	467,390
Solano.....	5,378,048
Sonoma.....	5,455,911
Stanislaus.....	2,242,129
Sutter.....	831,204
Tehama.....	450,559
Trinity.....	50,399
Tulare.....	4,228,525
Tuolumne.....	740,574
Ventura.....	9,412,547
Yolo.....	1,860,499
Yuba.....	842,857

(2) Notwithstanding paragraph (1), the amount of the reduction specified in that paragraph for any county or city and county that has been materially and substantially impacted as a result of a federally declared disaster, as evidenced by at least 20 percent of the cities, or cities and unincorporated areas of the county representing 20 percent of the population within the county suffering substantial damage, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of five million dollars (\$5,000,000) determined for that county or city and county pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each county and city and county in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each county and city and county as described in subparagraph (A) its share of five million dollars (\$5,000,000) on the basis of that county's population relative to the total population of all counties described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(b) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each city, except for a newly incorporated city that did not receive property tax revenues in the 1991-92 fiscal year, shall be reduced by 9 percent. In making the above computation with respect to cities in Alameda County, the computation for

a city described in paragraph (6) of subdivision (a) of Section 100.7, as added by Section 73.5 of Chapter 323 of the Statutes of 1983, shall be adjusted so that the amount multiplied by 9 percent is reduced by the amount determined for that city for “museums” pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) Notwithstanding paragraph (1), the amount of the reduction determined pursuant to that paragraph for any city that has been materially and substantially impacted as a result of a federally declared disaster, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of fifteen million dollars (\$15,000,000) determined for that city pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each city in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each city as described in subparagraph (A) its share of fifteen million dollars (\$15,000,000) on the basis of that city’s population relative to the total population of all cities described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(4) In the 1992–93 fiscal year and each fiscal year thereafter, the auditor shall adjust the computations required pursuant to Article 4 (commencing with Section 98) so that those computations do not result in the restoration of any reduction required pursuant to this section.

(c) (1) Subject to paragraph (2), the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall be reduced by 35 percent. For purposes of this subdivision, “revenues that are pledged to debt service” include only those amounts required to pay debt service costs in the 1991–92 fiscal year on debt instruments issued by a special district for the acquisition of capital assets.

(2) No reduction pursuant to paragraph (1) for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district’s total annual revenues, from whatever source, as shown in the 1989–90 edition of the State Controller’s Report on Financial Transactions Concerning Special Districts (not including any annual revenues from fiscal years following the 1989–90 fiscal year). With respect to any special district, as defined pursuant to subdivision (m) of Section 95, that is allocated property tax revenue pursuant to this chapter but does not appear in the State Controller’s Report on Financial Transactions Concerning Special Districts, the auditor shall determine the total annual revenues for that special district from the information in the 1989–90 edition of the State Controller’s Report on Financial Transactions Concerning



Counties. With respect to a special district that did not exist in the 1989–90 fiscal year, the auditor may use information from the first full fiscal year, as appropriate, to determine the total annual revenues for that special district. No reduction pursuant to paragraph (1) for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(3) The auditor in each county shall, on or before January 15, 1993, and on or before January 30 of each year thereafter, submit information to the Controller concerning the amount of the property tax revenue reduction to each special district within that county as a result of paragraphs (1) and (2). The Controller shall certify that the calculation of the property tax revenue reduction to each special district within that county is accurate and correct, and submit this information to the Director of Finance.

(A) The Director of Finance shall determine whether the total of the amounts of the property tax revenue reductions to special districts, as certified by the Controller, is equal to the amount that would be required to be allocated to school districts and community college districts as a result of a three hundred seventy-five million dollar (\$375,000,000) shift of property tax revenues from special districts for the 1992–93 fiscal year. If, for any year, the total of the amount of the property tax revenue reductions to special districts is less than the amount as described in the preceding sentence, the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall, subject to subparagraph (B), be reduced by an amount up to 5 percent of the amount subject to reduction for that district pursuant to paragraphs (1) and (2).

(B) No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the most recent State Controller's Report on Financial Transactions Concerning Special Districts. No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(C) In no event shall the amount of the property tax revenue loss to a special district derived pursuant to subparagraphs (A) and (B) exceed 40 percent of that district's property tax revenues or 10 percent of that district's total revenues, from whatever source.

(4) For the purpose of determining the total annual revenues of a special district that provides fire protection or fire suppression services, all of the following shall be excluded from the determination of total annual revenues:

(A) If the district had less than two million dollars (\$2,000,000) in total annual revenues in the 1991–92 fiscal year, the revenue generated by a fire suppression assessment levied pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(B) The total amount of all funds, regardless of the source, that are appropriated to a district, including a fire department, by a board of supervisors pursuant to Section 25642 of the Government Code or Chapter 7 (commencing with Section 13890) of Part 2.7 of Division 12 of the Health and Safety Code for fire protection. The amendment of this subparagraph by Chapter 290 of the Statutes of 1997 shall not be construed to affect any exclusion from the total annual revenues of a special district that was authorized by this subparagraph as it read prior to that amendment.

(C) The revenue received by a district as a result of contracts entered into pursuant to Section 4133 of the Public Resources Code.

(5) For the purpose of determining the total annual revenues of a resource conservation district, all of the following shall be excluded from the determination of total annual revenues:

(A) Any revenues received by that district from the state for financing the acquisition of land, or the construction or improvement of state projects, and for which that district serves as the fiscal agent in administering those state funds pursuant to an agreement entered into between that district and a state agency.

(B) Any amount received by that district as a private gift or donation.

(C) Any amount received as a county grant or contract as supplemental to, or independent of, that district's property tax share.

(D) Any amount received by that district as a federal or state grant.

(d) (1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991–92 fiscal year.

(2) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional

money be allocated from the fund to a school district or county office of education upon that school district or county office of education becoming an excess tax school entity.

(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2).

(B) (i) (I) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this subclause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(II) For the 2007–08 fiscal year and for each fiscal year thereafter, both of the following apply:

(ia) In allocating the revenues described in subclause (I), the auditor shall apportion funds to the appropriate special education local plan area to cover the amount determined in Section 56836.173 of the Education Code.

(ib) Except as otherwise provided by sub-subclause (ia), property tax revenues described in subclause (I) shall not be apportioned to special education programs funded pursuant to Section 56836.173 of the Education Code.

(III) If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of subclauses (I) and (II), the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(IV) A county Educational Revenue Augmentation Fund shall not be required to provide funding for special education programs funded pursuant to Section 56836.173 of the Education Code or any predecessor to that section for a fiscal year prior to the 2007–08 fiscal year that it has not already provided for these programs prior to the beginning of the 2007–08 fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars (\$5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 shall not exceed that portion of two million five hundred thousand dollars (\$2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars (\$8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999). This clause shall be operative for the 1999–2000 fiscal year only to the extent that moneys are appropriated for purposes of this clause in the Budget Act of 1999 by an appropriation that specifically references this clause.

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993–94 fiscal year, the amounts allocated from

the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(e) (1) For the 1997–98 fiscal year:

(A) The amount of property tax revenue deemed allocated in the prior fiscal year to any city subject to the reduction specified in paragraph (2) of subdivision (b) shall be reduced by an amount that is equal to the difference between the amount determined for the city pursuant to paragraph (1) of subdivision (b) and the amount of the reduction determined for the city pursuant to paragraph (2) of subdivision (b).

(B) The amount of property tax revenue deemed allocated in the prior fiscal year to any county or city and county subject to the reduction specified in paragraph (2) of subdivision (a) shall be reduced by an amount that is equal to the difference between the amount specified for the county or city and county pursuant to paragraph (1) of subdivision (a) and the amount of the reduction determined for the county or city and county pursuant to paragraph (2) of subdivision (a).

(2) The amount of property tax revenues not allocated to a city or city and county as a result of this subdivision shall be deposited in the Educational Revenue Augmentation Fund described in subparagraph (A) of paragraph (1) of subdivision (d).

(3) For purposes of allocations made pursuant to Section 96.1 for the 1998–99 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision shall be deemed property tax revenues allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(f) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 97.03 of the Revenue and Taxation Code, as added by Senate Bill 617 of the 1991–92 Regular Session.

SEC. 3. Section 97.3 of the Revenue and Taxation Code is amended to read:

97.3. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section, as modified by Section 97.2 or its predecessor section for the 1992–93 fiscal year, shall be modified for the 1993–94 fiscal year pursuant to subdivisions (a) to (c), inclusive, as follows:

(a) The amount of property tax revenue deemed allocated in the prior fiscal year to each county and city and county shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions for counties and cities and counties determined pursuant to this section shall be one billion nine hundred ninety-eight million dollars (\$1,998,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of the reduction for each county or city and county as follows:

(A) The proportionate share of the property tax revenue reduction for each county or city and county that would have been imposed on all counties under the proposal specified in the “May Revision of the 1993–94 Governor’s Budget” shall be determined by reference to the document entitled “Estimated County Property Tax Transfers Under Governor’s May Revision Proposal,” published by the Legislative Analyst’s Office on June 1, 1993.

(B) Each county’s or city and county’s proportionate share of total taxable sales in all counties in the 1991–92 fiscal year shall be determined.

(C) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (A) to the one billion nine hundred ninety-eight million dollar (\$1,998,000,000) statewide reduction for counties and cities and counties.

(D) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (B) to the one billion nine hundred ninety-eight million dollar (\$1,998,000,000) statewide reduction for counties and cities and counties.

(E) The Director of Finance shall add the amounts determined pursuant to subparagraphs (C) and (D) for each county and city and county, and divide the resulting figure by two. The amount so determined for each county and city and county shall be divided by a factor of 1.038. The resulting figure shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior fiscal year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee its determination of the amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify the auditor of each county and city and county of the amount of property tax revenue reduction determined for each county and city and county.

(5) Notwithstanding any other provision of this subdivision, the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 3 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993–94 fiscal year but for the implementation of that alternative procedure. For purposes of this paragraph, “qualifying school entity” means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95, and a county’s Educational Revenue Augmentation Fund as described in subdivision (d) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county or city and county shall not exceed

the reduction calculated for that county or city and county pursuant to paragraph (2).

(6) Notwithstanding the provisions of paragraph (5), the amount of the reduction specified in paragraph (2) for a county of the 16th class that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 2 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue distributed to each qualifying school entity that would not have been distributed for the 1993–94 fiscal year, pursuant to the historical accounting method of that county of the 16th class, but for the implementation of that alternative procedure. For purposes of this paragraph, “qualifying school entity” means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95, and a county’s Educational Revenue Augmentation Fund as described in subdivision (a) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county shall not exceed the reduction calculated for that county pursuant to paragraph (2).

(b) The amount of property tax revenue deemed allocated in the prior fiscal year to each city shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions determined for cities pursuant to this section shall be two hundred eighty-eight million dollars (\$288,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of reduction for each city as follows:

(A) The amount of property tax revenue that is estimated to be attributable in the 1993–94 fiscal year to the amount of each city’s state assistance payment received by that city pursuant to Chapter 282 of the Statutes of 1979 shall be determined.

(B) A factor for each city equal to the amount determined pursuant to subparagraph (A) for that city, divided by the total of the amounts determined pursuant to subparagraph (A) for all cities, shall be determined.

(C) An amount for each city equal to the factor determined pursuant to subparagraph (B), multiplied by three hundred eighty-two million five hundred thousand dollars (\$382,500,000), shall be determined.

(D) In no event shall the amount for any city determined pursuant to subparagraph (C) exceed a per capita amount of nineteen dollars and thirty-one cents (\$19.31), as determined in accordance with that city’s population on January 1, 1993, as estimated by the Department of Finance.

(E) The amount determined for each city pursuant to subparagraphs (C) and (D) shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee those amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify each county auditor of the amount of property tax revenue reduction determined for each city located within that county.

(c) (1) The amount of property tax revenue deemed allocated in the prior fiscal year to each special district, as defined pursuant to subdivision (m) of Section 95, shall be reduced by the amount determined for the district pursuant to paragraph (3) and increased by the amount determined for the district pursuant to paragraph (4). The total net amount of these changes is intended to equal two hundred forty-four million dollars (\$244,000,000) in the 1993–94 fiscal year.

(2) (A) Notwithstanding any other provision of this subdivision, no reduction shall be made pursuant to this subdivision with respect to any of the following special districts:

(i) A local hospital district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code.

(ii) A water agency that does not sell water at retail, but not including an agency the primary function of which, as determined on the basis of total revenues, is flood control.

(iii) A transit district.

(iv) A police protection district formed pursuant to Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code.

(v) A special district that was a multicounty special district as of July 1, 1979.

(B) Notwithstanding any other provision of this subdivision, the first one hundred four thousand dollars (\$104,000) of the amount of any reduction that otherwise would be made under this subdivision with respect to a qualifying community services district shall be excluded. For purposes of this subparagraph, a “qualifying community services district” means a community services district that meets all of the following requirements:

(i) Was formed pursuant to Division 3 (commencing with Section 61000) of Title 6 of the Government Code.

(ii) Succeeded to the duties and properties of a police protection district upon the dissolution of that district.

(iii) Currently provides police protection services to substantially the same territory as did that district.

(iv) Is located within a county in which the board of supervisors has requested the Department of Finance that this subparagraph be operative in the county.

(3) (A) On or before September 15, 1993, the county auditor shall determine an amount for each special district equal to the amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year multiplied by the ratio determined pursuant to paragraph (1) of subdivision (a) of former Section 98.6 as that section read on June 15, 1993. In those counties that were subject to former Sections 98.66, 98.67, and 98.68, as those sections read on that same date, the county auditor shall determine an amount for each special district that represents the current amount of its allocation determined



pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In that county subject to Section 100.4, the county auditor shall determine an amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.4 or their predecessor sections for the 1993–94 fiscal year that is attributable to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In determining these amounts, the county auditor shall adjust for the influence of increased assessed valuation within each district, including the effect of jurisdictional changes, and the reductions in property tax allocations required in the 1992–93 fiscal year by Chapters 699 and 1369 of the Statutes of 1992. In the case of a special district that has been consolidated or reorganized, the auditor shall determine the amount of its current property tax allocation that is attributable to the prior district's or districts' receipt of state assistance payments pursuant to Chapter 282 of the Statutes of 1979. Notwithstanding any other provision of this paragraph, for a special district that is governed by a city council or whose governing board has the same membership as a city council and that is a subsidiary district as defined in subdivision (e) of Section 16271 of the Government Code, the county auditor shall multiply the amount that otherwise would be calculated pursuant to this paragraph by 0.38 and the result shall be used in the calculations required by paragraph (5). In no event shall the amount determined by this paragraph be less than zero.

(B) Notwithstanding subparagraph (A), commencing with the 1994–95 fiscal year, in the County of Sacramento, the auditor shall determine the amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.6 for the 1994–95 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979.

(4) (A) (i) On or before September 15, 1993, the county auditor shall determine an amount for each special district that is engaged in fire protection activities, as reported to the Controller for inclusion in the 1989–90 edition of the Financial Transactions Report Concerning Special Districts under the heading of “Fire Protection,” that is equal to the amount of revenue allocated to that special district from the Special District Augmentation Fund for fire protection activities in the 1992–93 fiscal year. For purposes of the preceding sentence for counties of the second class, the phrase “amount of revenue allocated to that special district” means an amount of revenue that was identified for transfer to that special district, rather than the amount of revenue that was actually received by that special district pursuant to that transfer.

(ii) In the case of a special district, other than a special district governed by the county board of supervisors or whose governing body is the same as the county board of supervisors, that is engaged in fire protection activities as reported to the Controller, the county auditor shall also determine the amount by which the district's amount determined pursuant to paragraph

(3) exceeds the amount by which its allocation was reduced by operation of former Section 98.6 in the 1992–93 fiscal year. This amount shall be added to the amount otherwise determined for the district under this paragraph. In any county subject to former Section 98.65, 98.66, 98.67, or 98.68 in that same fiscal year, the county auditor shall determine for each special district that is engaged in fire protection activities an amount that is equal to the amount determined for that district pursuant to paragraph (3).

(B) For purposes of this paragraph, a special district includes any special district that is allocated property tax revenue pursuant to this chapter and does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, but is engaged in fire protection activities and appears in the State Controller's Report on Financial Transactions Concerning Counties.

(5) The total amount of property taxes allocated to special districts by the county auditor as a result of paragraph (4) shall be subtracted from the amount of property tax revenues not allocated to special districts by the county auditor as a result of paragraph (3) to determine the amount to be deposited in the Education Revenue Augmentation Fund as specified in subdivision (d).

(6) On or before September 30, 1993, the county auditor shall notify the Director of Finance of the net amount determined for special districts pursuant to paragraph (5).

(d) (1) The amount of property tax revenues not allocated to the county, city and county, cities within the county, and special districts as a result of the reductions required by subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund established in each county or city and county pursuant to Section 97.2. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1992–93 fiscal year.

(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district. For each county office of education, the allocation shall be made based on the historical split of base property tax revenue between the county office of education and school districts within the county. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a school district or county office of education upon that district or

county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per average daily attendance in each remaining school district, and on the basis of the historical split described above for each county office of education that is not an excess tax school entity, until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per funded full-time equivalent student in each remaining community college district that is not an excess tax school entity until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(B) (i) (I) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate

those excess funds to the county superintendent of schools. Funds allocated pursuant to this subclause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(II) For the 2007–08 fiscal year and for each fiscal year thereafter, both of the following apply:

(ia) In allocating the revenues described in subclause (I), the auditor shall apportion funds to the appropriate special education local plan area to cover the amount determined in Section 56836.173 of the Education Code.

(ib) Except as otherwise provided by sub-subclause (ia), property tax revenues described in subclause (I) shall not be apportioned to special education programs funded pursuant to Section 56836.173 of the Education Code.

(III) If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of subclauses (I) and (II), the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(IV) A county Educational Revenue Augmentation Fund shall not be required to provide funding for special education programs funded pursuant to Section 56836.173 of the Education Code or any predecessor to that section for a fiscal year prior to the 2007–08 fiscal year that it has not already provided for these programs prior to the beginning of the 2007–08 fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars (\$5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 shall not exceed that portion of two million five hundred thousand dollars (\$2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem

property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars (\$8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999).

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 for the 1994–95 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than those amounts deposited in the Educational Revenue Augmentation Fund pursuant to any provision of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.